

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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U.S. COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

Civil Action No. 12 CV 8791 (CM)

-against-

ERIC MONCADA,  
BES CAPITAL LLC, and  
SERDIKA LLC,

ECF Case

Defendants.

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AFFIDAVIT IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

ERIC MONCADA, being duly sworn, deposes and says:

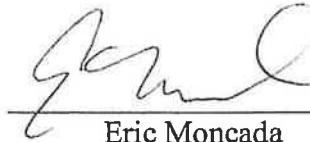
I am the individual defendant in this action. I make this affidavit in opposition to plaintiff's motion for summary judgment. This affidavit will address matters not covered in my deposition:

1. Net Worth: I am advised by counsel that in the event the Court grants judgment against me in favor of plaintiff, the Court may consider the imposition of a civil penalty, and that my net worth is relevant in determining the appropriate amount of the penalty. Attached hereto as Exhibit A is a copy of a Net Worth Statement I filled out during the pendency of this case and which was delivered to the plaintiff by my counsel. There has been no substantial change in my net worth since the date it was completed.

2. I am advised that plaintiff may argue that entering small orders in the opposite direction of previously entered large lot orders is inconsistent with the objective of seeking liquidity. This is not true. Often times, the absence of liquidity would become apparent

after I entered large lot orders and would lead me to the conclusion that I should enter an order in the opposite direction.

3. I am advised that plaintiff CFTC claims that if I had been attempting to “signal” to the market that I wanted to trade on one side of the market I actually would have traded on the same side after sending the signal. I believe this argument represents a fundamental misunderstanding of trading. The “signal” I sent was to purchase (or sell) at a specific price at a specific time. I was “fishing” for bids at that price and time. Having sent a signal and having had no takers in that time frame at that price, I might well have concluded that the better trade would be on the opposite side at a different price.



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Eric Moncada

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014

See Attached - CA  
Notary Public Notarial Certificate

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1–6 below)  
 See Statement Below (Lines 1–6 to be completed only by document signer[s], not Notary)

1  
2  
3  
4  
5  
6

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

State of California

County of MONO

Subscribed and sworn to (or affirmed) before me

on this 26<sup>th</sup> day of February, 2014,  
 Date Month Year  
 by(1) Eric Muncaida,  
 Name of Signerproved to me on the basis of satisfactory evidence  
 to be the person who appeared before me (.)  
 (and(2) \_\_\_\_\_,  
 Name of Signerproved to me on the basis of satisfactory evidence  
 to be the person who appeared before me.)Signature Jessica Mormann

Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Further Description of Any Attached Document**

Title or Type of Document: Affidavit in opposition to Motion for Summary Judgment  
 Document Date: February 24, 2014 Number of Pages: 2

Signer(s) Other Than Named Above NONE**RIGHT THUMBNPRINT OF SIGNER #1**

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**RIGHT THUMBNPRINT OF SIGNER #2**

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